#### INTERIM IRM PROCEDURAL UPDATE

DATE: 2/03/2012

NUMBER: WI-21-0212-0333

**SUBJECT: TEGE CAS Telephone Operations** 

AFFECTED IRM(s)/SUBSECTION(s): 21.3.8

CHANGE(s):

- IRM 21.3.8.1(3) Added IRM 21.5.10, Examination Issues, to the list of IRMs to which TEGE assistors might have to refer.
- **IRM 21.3.8.3.8(1)** Removed references to the Pub 78 Addendum and revised the time frame for updates to Pub 78 data.
  - e. If the issue is omission from the on-line Pub 78 data caused by Service error and you were able to update Master File to correct the problem, advise the customer that the organization will appear in the next (or, depending on the timing, the following) online update. See IRM 21.3.8.12.12.1, "Pub. 78 Data Omissions (Service Error Non-Service Error)."
  - f. Advise the customer the approximate time frame the organization will appear in the on-line system: For Online Exempt Organization Master File (EOMF), it may take up to 6-8 weeks. Online Pub 78 data is generally updated the third Monday of each month.
- IRM 21.3.8.5.1.3.1(2) Added an Exception that organizations may not hold themselves out to be exempt if they were required to file an annual return or to submit an e-Postcard and failed to do so for three consecutive years; added a row to the table about organizations in status 97 on IDRS but with a subsequent favorable ruling on EDS/TEDS, including a Note about rulings that did not roll to Master File.

**EXCEPTION:** If the entity has been organized and operated for more than three fiscal periods prior to the call and has not filed an information return or submitted an e-Postcard for three consecutive years for periods that began after December 31, 2006, then the organization may not hold itself out to be automatically exempt unless it meets one of the exceptions to the filing requirements imposed by the Pension Protection Act of 2006 (e.g., churches). The organization is required to apply for exemption or to file taxable returns.

• **IRM 21.3.8.5.1.3.3(1)** - Added an Exception to the unassigned cases procedure that referrals should not be prepared for "off-cycle" applications.

**EXCEPTION:** Do not prepare a Form 4442 for "off cycle" applications. Refer to the "5-year remedial amendment cycle" link from the "off-cycle" link on the "Check the Status of Your Letter" page to determine whether an application was "on-" or "off cycle." Explain that "off-cycle" applications are placed in suspense and processed only after all "on-cycle" cases are processed.

- **IRM 21.3.8.9.9(1)** Updated the frequency of the online Pub 78 data revisions and deleted the Note about the Addendum.
  - 1. When updating the EO submodule of an organization described in IRC section 170(c) on Master File to status "01", and the organization is entitled to receive deductible contributions, input cum list indicator 3. The update adds the organization to the next monthly update of the online Pub 78 data.
  - 2. Only organizations with an individual exemption or central organizations holding group rulings are added to the list (no subordinates). These organizations are primarily IRC section 501(c)(3) organizations, but the list also includes other IRC section 501(c) organizations that meet certain conditions (e.g., volunteer fire departments, cemetery companies, fraternal organizations, and veterans organizations).
  - 3. To determine whether non-501(c)(3) organizations should be added to the Pub. 78 data, research CC BMFOLO and/or EDS/TEDS for the Deductibility Code and date. If charitable contributions can be accepted by the organization, the Deductibility Code will be "1."
  - 4. This action also applies when adding an EO submodule to an account.

**NOTE:** When adding an account onto the Master File with TC 000, it is necessary to input the CUM-LST-IND as a separate TC 016 transaction.

- 5. To add an organization to the Pub. 78 data, access CC EOREQ. Input a "3" in the CUM-LST-IND field.
- IRM 21.3.8.9.10(6) Removed the information from (c), (d), and (f) and put it into a table in a new (d), adding information on deleting a filing requirement, and re-lettered the remaining listed items.
  - 6 (d) Refer to the table below when deleting the information from the indicated fields:

To Delete the	Input	
Advance Ruling Date	"999999" in the ADVNC-RULNG-DT field	
In care of name	"\$\$" in the CARE-OF-NAME field	
Sort/DBA name	"\$\$" in the SORT-NAME field	
Foundation code	"99" in the FNDTION-CD> field	
Filing requirement	"0" or "00" in the applicable form field	

- **IRM 21.3.8.10.2.7** Updated (4) and (5) to reflect the requirement to send a Form 8940 and the appropriate user fee with requests to change foundation classification.
  - 6. If the caller received a CP 259-B/421 (990-PF), but research indicates that the entity is a presumptive PF and there is no open "F" case on LINUS or EDS/TEDS:
    - 1. Instruct the caller to submit a Form 8940, a Form 8734 completed for the five most recent tax periods, and the appropriate user fee ( see Rev. Proc. 2012-8 2012-1 I.R.B. 235 or its successor for the current fee) to the Cincinnati Campus and a response to the notice to the Ogden Campus
    - 2. Update the organization's filing requirement to 990PF-3.
  - 7. If the caller received a CP 259-C/422 or CP 427, research EDS/TEDS for a favorable "F" case. If none is found, instruct the caller to submit a Form 8940, a Form 8734 completed for the five most recent tax periods, and the appropriate user fee ( see Rev. Proc. 2012-8 2012-1 I.R.B. 235 or its successor for the current fee) to the Cincinnati Campus and a response to the notice to the Ogden Campus.
- **IRM 21.3.8.11.7.1(2)** Updated the Reminder to show the requirement to submit Form 8940 and the appropriate user fee.

**REMINDER:** Inform the authorized caller that the organization must provide documentation showing that it met an applicable public support test (Form 8734 or a support schedule from Schedule A of the Form 990/Form 990-EZ). The organization should provide financial information for the five most recent completed tax periods. The organization must also submit Form 8940 and the appropriate user fee ( see Rev. Proc. 2012-8 2012-1 I.R.B. 235 or its successor for the current fee).

• IRM 21.3.8.12.5.1(5) - Modified the Note to instruct the assistor to transfer the caller to BMF if the organization would not have qualified for tax exemption.

> **NOTE:** Do not create an EO submodule for these organizations. If it appears from the caller's description of the organization's purpose and activities that it would not have qualified for tax exemption, transfer the caller to a BMF assistor per the TTG.

IRM 21.3.8.12.5.4(7) - Added a reference to paragraph (2) of this same subsection and deleted the Exception.

> If a 501(c)(3) organization shows as a presumptive private foundation or as a foundation code 09 on IDRS, research EDS/TEDS to see whether a ruling of foundation classification has been made. If found, update Master File accordingly. If not found (and the caller is authorized to act on behalf of the organization). instruct the organization to provide the information described in (1) and (2) above. See IRM 21.3.8.5.1.3.1, "Verification of Tax Exempt Status and Foundation Classification," if the caller is unauthorized.

**IRM 21.3.8.12.5.7(1)** - Updated the last row of the table to reflect the requirement to send a Form 8940 and the appropriate user fee.

#### If And Then

The organization has a 990-PF filing requirement

The caller states that the organization qualifies as a public charity under 170(b)(1)(A)(vi) or 509(a)(2)**NOTE:** If the caller mentions Announcement 2010-19 or states that the organization is a and a Form 8734 (or the trust that erroneously thought it became a private foundation from Schedule A of the Form after the Pension Protection Act of 2006 went into effect. instruct the caller to submit a in the Announcement.

Determine whether the organization was presumed to be a private foundation or was *ruled* to be a private foundation. If the former, the organization should complete a Form 8940 applicable support schedule 990) and send it and the appropriate user fee ( see Rev. Proc. 2012-8 2012-1 I.R.B. 235 ruling request per the guidance or its successor for the current fee) to the address shown on the instructions to Form8940. If the latter, explain the 60-month termination process. See IRM 21.3.8.12.5.4.1, "Section 507(b)(1)(B) Terminations (60-Month Terminations)," for additional information.

• IRM 21.3.8.12.6(2) - Updated the status 21 and 32 procedures to include the requirement to send a Form 8940 and the appropriate user fee when submitting a Form 8734 and added information to status 97 that the caller should be told that the organization's exemption was automatically revoked for failure to file the required information return for three consecutive years and added a Note that organizations with an unresolved ARED need not submit a Form 8734 with their new application.

# If the organization is in

### **Then**

Status 21

- 1. Check EDS/TEDS for a "T" case.
- 2. If there is a closed "T" case, the organization must reapply.
- 3. If there is not a closed "T" case, research IDRS to confirm that the organization filed at least one annual information return (including the Form 990-N) or has at least one satisfying transaction for the most recent three tax years. If none is found, inform the caller that our records indicate that the organization's exemption is due to be revoked for failure to file the required returns for three consecutive years. If found:
- •verify the organization's mailing address
- •update the address on IDRS (as appropriate)
- 4. Update the EO submodule to reflect the prior EO status code (see the Note below the table if the prior status is status 31 or status 40), using the effective date from EDS/TEDS whenever possible, and give the organization the appropriate filing requirements.

**NOTE:** If the effective date cannot be determined from EDS/TEDS research, check BMFOLO for a deductibility year. If found, use January of that year for the status code date, e.g., if BMFOLO shows a deductibility year of 1989, use 198901 for the status code date. If no deductibility code is found on BMFOLO, use the ruling date for the status code date for organizations with affiliation code 1, 2, or 3. For subordinate organizations (affiliation code 7 or 9), use

the EIN establishment date.

**EXCEPTION:** If the organization is preparing to file a Form 990/Form 990-EZ/Form 990-PF or if the organization is eligible to submit a Form 990-N for its most recently-completed tax period and the return is not yet delinquent, there is no need to update the organization's status on IDRS unless other circumstances require it. When the return or e-Postcard is processed, the status of the organization will be updated to status 01 or to the status it held prior to status 21. Additionally, the AOR will be updated to the address provided on the return/e-Postcard. If the organization has not filed a return for the previous two periods, stress to the caller that the organization must file a complete and timely return for the third year or its exemption will be automatically revoked. **REMINDER:** Call site assistors should not update the submodules for central organizations (affiliation codes 6 and 8), but rather should prepare a Form 4442 referral to EO Entity (fax 801-620-3249 or 801-620-3263). See IRM 21.3.8.9.10, "TCs for the Entity Module," for additional information. Refer to (6)(h).

- 5. See IRM 21.3.8.11.7.1, "Requests for Affirmation Letters from Organizations Showing an ARED on IDRS," if the ARED is 200806 or later. If the organization has an expired advance ruling date (200805 or earlier) or has been made a presumptive PF, research EDS/TEDS for an "F" case.
- •If a closed "F" case is found, update IDRS based on the EDS/TEDS information and send an affirmation letter if appropriate.
- •If no closed "F" case is found, prepare Letter 4164C, Form 8734 Needed/Advance Ruling Expired Letter and inform the caller that the organization will also have to submit Form 8940 and the appropriate user fee (see Rev. Proc. 2012-8 2012-1 I.R.B. 235 or its successor for the current fee).
- 6. If no "F" case is found on EDS/TEDS and the organization has a foundation code 09, prepare Letter 4179C, *No Initial Advance Ruling Issued Letter*.

- 7. If neither 5 nor 6 above applies, prepare the appropriate affirmation letter.
- 8. If the organization is a 990 filer, ensure that the organization knows it must file a Form 990 if its annual gross receipts are normally more than \$50,000; if the organization's annual gross receipts are normally \$50,000 or less, make sure the organization is aware of the Form 990-N filing requirement. See IRM 21.3.8.12.24, "Annual Electronic Notice Filing Requirement, Form 990-N." If the organization is a private foundation, instruct the caller to file any delinquent Forms 990-PF, if applicable. **REMINDER:** Private foundations must file an annual

**REMINDER:** Private foundations must file an annual Form 990-PF regardless of their gross receipts.

NOTE: No new organizations have been put into this status since January 2008.

- 1. Research BMFOL/TXMOD to determine if a Form 990/990-EZ has posted (TC 150) or was received for processing (TC 594/599) after the Status 32 date.
- a. If a Form 990/990-EZ has posted or was received for processing, update the status to the status the organization had prior to the 32 with 990-01 FR and continue addressing the caller's issue.
  - b. If no Form 990/990-EZ has posted or was received for processing after the status 32 date, research IDRS to confirm that the organization filed at least one annual information return (including the Form 990-N) or has at least one satisfying transaction for the most recent three tax years. If none is found, inform the caller that our records indicate that the organization's exemption is due to be revoked for failure to file the required returns for three consecutive years. If found, continue to Step 2.
  - 2. Check EDS/TEDS for an "F," "P," or "A" case closed after the Status 32 date.
  - a. If a closed case is found, update the status and filing requirements based on the EDS/TEDS information and continue addressing the caller's issue.

**NOTE:** If EDS/TEDS shows a closed "T" case, the organization must reapply. Perfect the EO submodule to reflect EO status 20 to agree with the termination

per the EDS/TEDS record.

# b. If no "F," "P," "A," or "T" case is located:

- o Advise the caller that the organization was put into a non-filer status because we did not receive a return or a response to a notice sent to them regarding filing Form 990.
- Advise the caller that the organization needs to file Form 990 or submit a Form 990-N in order to update the status.

**NOTE:** If the organization has not filed a return for the previous two periods, stress to the caller that the organization must file a complete and timely return for the third year or its exemption will be automatically revoked.

- Probe caller to determine the gross receipts/assets and advise caller if eligible to file Form 990-EZ or to submit Form 990-N.
- Recommend to the caller a self-help method of obtaining forms and explain what is needed.
   See IRM 21.3.8.3.7, "Ordering Forms and Publications."
- Advise caller of the normal due date of the return. If the return is being filed late, advise the caller that a notice may be generated assessing a daily delinquency penalty when the return is posted. Advise the caller about reasonable cause abatement procedures.

**NOTE:** This does not apply to the Form 990-N.

 Verify the organization's mailing address and update IDRS as necessary.

**NOTE:** If the organization has an expired ARED (200805 or earlier), inform the caller that the organization will also have to submit a completed Form 8940 and a Form 8734 (or a copy of its completed Form 990 Schedule A), as well as the appropriate user fee ( see Rev. Proc. 2012-8 2012-1 I.R.B. 235 or its successor for the current fee), to:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012
If the organization has a foundation code 09, prepare
Letter 4179C, No Initial Advance Ruling Issued Letter.

3. See IRM 21.3.8.7.3, "Choosing the Appropriate Letter," if the caller was requesting an affirmation letter (unless you prepared Letter 4179C).

Status 97

Explain to the caller that the organization's exemption was automatically revoked for failure to file a required information return for three consecutive years and that it must file for exemption if it intends to operate as a tax exempt organization. For additional information, see IRM 21.3.8.12.6.1, "Responding to Calls From or About Organizations in Status 97."

**NOTE:** If the organization still shows an unresolved ARED on its original ruling and was not presumed to be a private foundation, it is not required to submit the Form 8734 with its application, as that information is irrelevant to the new application.

IRM 21.3.8.12.6.1(2) - Updated the mail out/disclosure dates.

If the status 97 date is	Then you may not reveal the automatic revocation status until on or after		
201104 or earlier	June 9, 2011		
201105	July 13, 2011		
201106	August 10, 2011		
201107	September 7, 2011		
201108	October 5, 2011		
201109	November 9, 2011		
201110	December 7, 2011		
201111 and 201112	February 8, 2012		
201201	March 7, 2012		
201202	April 11, 2012		
201203	May 9, 2012		

201204	June 6, 2012
201205	July 11, 2012
201206	August 8, 2012
201207	September 5, 2012
201208	October 10, 2012
201209	November 7, 2012
201210	December 12, 2012

- IRM 21.3.8.12.12.1 Revised the entire subsection to reflect the elimination of the Pub 78 Addendum.
  - 8. Do not refer a customer directly to Headquarters employees for issues relating to Pub 78 data under any circumstances.
  - 9. Omissions to Pub. 78 data may be due to a Service error or an error on the part of the organization. When contact is received regarding an organization's omission from Pub. 78 data, consider the following questions:
    - a. Should the organization actually be listed in Pub. 78 data? Pub. 78 data not only contains a list of organizations described in IRC Section 170(c), it also contains the names of some well known religious denominations, even though these denominations do not have a group ruling. Many of their member churches may not have obtained individual exemption rulings (e.g., Greek Orthodox Archdiocese of N. and S. America and Affiliated Organizations). Similarly, local components or chapters of the American National Red Cross generally have not obtained individual exemption rulings, but Pub. 78 data contains a generic listing for the "American National Red Cross and Its Constituent Chapters and Branches." There is a specific C letter which may be sent to local chapters of the American National Red Cross (Letter 4205C).

**NOTE:** Subordinates in a group ruling are generally not listed in Pub. 78 data.

- b. *Is the determination relatively recent?*
- c. Has the organization received a letter of exemption? Is it an organization to which contributions are considered deductible under IRC section 170?
- d. What EO information is found on the Master File (MF)?

e. Is there an indication the omission from Pub. 78 data is the result of the organization's failure to do something? (For example, status 20, 21, 32; no application filed; application closed FTE; failure to file returns for two consecutive years if the organization has 990-01 or 990-PF-1 filing requirements or failure to respond to notices.) If so, take the appropriate action to resolve that issue.

# 10. When it's a Service Error:

- a. Various Service errors may prevent an organization from posting to Pub. 78 data. Each omission must be considered on a case–by–case basis.
- b. The most prevalent Service error is when a determination case was closed favorably on EDS/TEDS, but the record did not roll to MF.
- c. If the omission was due to a Service Error, take the following steps:

Step	Action			
	, , , , , , , , , , , , , , , , , , , ,			
2	Information on the Master File."  11. If you were able to update Master File to correct the problem, advise the caller that the organization will appear in the next (or, depending on the timing, the following) online update.  12. If you were not able to update Master File yoursel (e.g., you had to make a referral to the Correspondence Unit), inform the caller that you initiated a correction to the records and that the organization will appear in the online Pub 78 data in the first available update after the records have been corrected.			

## 4. When it's a Non-Service Error:

- a. If the omission was due to a non-Service error, the organization will be added to the first Pub. 78 data update after the organization has taken the necessary corrective actions.
- All transactions must be posted in order for the organization to be picked up in the Pub. 78 data extract.
   Manual input transactions take roughly 2 cycles to post.
   Normally, EDS/TEDS roll-overs take 1 cycle to post. The 1 cycle time-frame for EDS/TEDS closures is based on the

- date the data is rolled off EDS/TEDS and not the case closed date. The actual "roll" date can be determined from the date indicated on the EDS/TEDS case history screen (F6), which reflects the action "MF Cls Posted."
- c. If a case is closed on EDS/TEDS, or if a manual transaction is entered too late to make the cycle cutoff, the organization will not appear in the on-line Pub. 78 data until the following update. This is normal processing and does not constitute Service error.
- IRM 21.3.8.12.14.5.2 New subsection on removing organizations from a group ruling.
- 1. Occasionally an organization shows as part of a group ruling on IDRS but the caller claims that the organization is no longer part of the group or that it was never part of the group. Use the information in the table below to respond to the caller for organizations in status 01 and with affiliation code 9:

If the Caller Claims	And	Then	
That the organization was never part of the group ruling shown on IDRS	The organization does not have an individual ruling	2. Prepare an EO Submod Data Sheet if the organization is organized and operated as an IRC section 501(a) entity.  3. In the body of the email to EO Entity, inform them that the organization claims that it was never part of the group ruling and that the submod should be updated per the attached data.	
That the organization was never part of the group ruling shown on IDRS	•	Instruct the caller to send a letter explaining the situation and a copy of their determination letter to:  IRS  Attn. EO Entity, MS 6273,  Ogden, UT 84201	

	ır.			
That the organization used to	The organization does not have an	The information may also be faxed to 801-620-3249 or 801-620-3263.  4. Prepare an EO Submod Data Sheet if the		
be part of the group ruling shown on IDRS but isn't any longer	individual ruling	organization is organized and operated as an IRC section 501(a) entity.  5. In the body of the email to EO Entity, inform them that the organization claims that it is no longer part of the group ruling		
		and that the submod should be updated per the attached data.		
That the organization used to be part of the group ruling shown on IDRS	subsequently received an individual ruling	Instruct the caller to have the central organization send a letter to EO Entity stating that they had included the organization in their group ruling in error and that the organization has an individual ruling. The information should be sent to:  IRS		
		Attn. EO Entity, MS 6273, Ogden, UT 84201		
		The information may also be faxed to 801-620-3249 or 801-620-3263.		
That the organization agreed to be part of the group ruling after having received its own individual ruling	wants its	Instruct the caller to file a new application for exemption and pay the appropriate user fee		

- 2. If the caller asks a general question about how to be removed from a group ruling, inform the caller that the central organization may denote the organization as a deletion when it submits its annual SGRI. See IRM 21.3.8.12.14.3, "Supplemental Group Ruling Information (SGRI)," for additional information about the SGRI process.
- IRM 21.3.8.13.2.2 New subsection on Form 8955-SSA, Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits.
  - 1. As of plan year 2009, Schedule SSA was eliminated as a schedule to the Form 5500 series and was replaced with Form 8955-SSA, Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits.
  - 2. Filing details were described in Announcement 2011-21, IRB 2011-12.
  - 3. As a result of delays in developing and releasing the form and its instructions, the initial deadline for filing Form 8955-SSA for plan years 2009 and 2010 was extended. The modified due date is the later of (1) January 17, 2012, and (2) the due date that generally applies for filing the Form 8955-SSA for 2010. No Form 5558 extensions will be granted for the January 17, 2012, due date.
  - 4. Form 8955-SSA can be submitted to the IRS in paper at the address shown below or filed electronically using third-party software and the IRS' Filing Information Returns Electronically (FIRE) system.
  - 5. If the caller asks if we received his/her Form 8955-SSA, ask the caller if the form was filed on paper or electronically and use the table below to respond:

If Form 8955- SSA was filed	And	Then
	The call is before February 17, 2012.	<ul> <li>Explain that the IRS did not begin processing those forms until after January 17 and that we cannot confirm receipt until after February 17.</li> <li>Assure the caller that he/she will be contacted if we have any questions about the form.</li> <li>If the caller still states that he/she will want confirmation of receipt/processing, tell the caller</li> </ul>

		he/she may call us again after February 17 to see whether the form has been received and processed.  NOTE: If the caller expresses concern about a penalty, explain that the filer would never be assessed a penalty based on the processing date.		
Electronically	The call is on or after February 17, 2012.	<ul> <li>If you are a tax law assistor, transfer the caller to an EP accounts assistor.</li> <li>If you are an EP accounts assistor, research EMFOL for receipt of the form and respond accordingly.</li> <li>If we do not show that the form has been processed, yet, assure the caller that he/she will be contacted if we have any questions about the form.</li> </ul>		
On paper		<ul> <li>Explain that the IRS is serving as a mail collection point for the Social Security Administration for this form and that the forms are actually being processed by SSA.</li> <li>Tell the caller that SSA has no call site to confirm receipt of the form but that the filer will be contacted if the SSA has any questions about the form.</li> </ul>		

- 6. If a caller states that the bar code did not print on his/her form for plan year 2010, explain that the bar code will only appear when the form is completed. This is a safety measure to prevent filers from printing an incomplete form and mailing it in.
- 7. If the caller asks about an acceptable format for the signature on a paper-filed form, tell the caller that all formats are acceptable: scanned, copied, and faxed, as well as actual ink or pencil.
- 8. If filers are submitting a delinquent Form 5500 for plan years 2008 or earlier and are required to submit a Schedule SSA as part of that filing, they should file the Form 5500 with the DOL, but they should send the Schedule SSA (Form 5500) to:

# Department of the Treasury Internal Revenue Service Center Ogden, UT 84201-0024

- 9. The IRS Web site contains a page of resources dealing with the Form 8955-SSA, including a link to FAQs about the form.
- IRM 21.3.8-12 Deleted the information about the Pub 78 Addendum.

Issue	Sub- Issue/Additional Details	Form or Information Required	Area That Handles Issue	Time Frame	IRM Reference
Public update	cation 78 data e	N/A	Automatic from EDS/IDRS	Online Pub 78 data monthly updates, generally the third Monday of the month	See IRM 2.3.8.3.8, "Researching and Perfecting Entity/EO Submodule Information on the Master File." Refer to (1)(f).